

Introduced by Senator McClintock

February 24, 2006

An act to amend Section 1610 of the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

SB 1617, as introduced, McClintock. Streambed alteration agreements: emergency work.

Existing law generally provides for the execution of lake or streambed alteration agreements by the Department of Fish and Game, and persons, state or local governmental agencies, or public utilities for the purpose of regulating the conduct of activities that affect a river, stream, or lake, and thereby affect the protection and conservation of fish and wildlife. Existing law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of any river, stream, or lake or from depositing certain material where it may pass into any river, stream, or lake designated by the Department of Fish and Game, without first notifying the department of that activity.

Existing law exempts from those provisions immediate emergency work necessary to protect life or property, immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in an area in which a state of emergency has been proclaimed by the Governor, and emergency projects undertaken, carried out, or approved by a state or local governmental agency to maintain, repair, or restore an existing highway, within the existing right-of-way of the highway, that has been damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. Existing law requires the

entity performing the emergency work to notify the department of the work, in writing, within 14 days of beginning the work.

This bill would expand those emergency work exemptions to include emergency work declared by the governing body of a local governmental agency, by resolution adopted by a majority vote, to be necessary to prevent or mitigate immediate future loss, or damage, to life, health, property, or essential public services that, in the determination of the local governmental agency, is likely to occur as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1610 of the Fish and Game Code is
2 amended to read:
3 1610. (a) Except as provided in subdivision (b), this chapter
4 does not apply to any of the following:
5 (1) Immediate emergency work necessary to protect life or
6 property.
7 (2) Immediate emergency repairs to public service facilities
8 necessary to maintain service as a result of a disaster in an area in
9 which a state of emergency has been proclaimed by the Governor
10 pursuant to Chapter 7 (commencing with Section 8550) of
11 Division 1 of Title 2 of the Government Code.
12 (3) Emergency projects undertaken, carried out, or approved
13 by a state or local governmental agency to maintain, repair, or
14 restore an existing highway, as defined in Section 360 of the
15 Vehicle Code, within the existing right-of-way of the highway,
16 that has been damaged as a result of fire, flood, storm,
17 earthquake, land subsidence, gradual earth movement, or
18 landslide, within one year of the damage. Work needed in the
19 vicinity above and below a highway may be conducted outside of
20 the existing right-of-way if it is needed to stop ongoing or
21 recurring mudslides, landslides, or erosion that pose an
22 immediate threat to the highway, or to restore those roadways
23 damaged by mudslides, landslides, or erosion to their predamage
24 condition and functionality. This paragraph does not exempt
25 from this chapter any project undertaken, carried out, or

1 approved by a state or local governmental agency to expand or
2 widen a highway damaged by fire, flood, storm, earthquake, land
3 subsidence, gradual earth movement, or landslide. The exception
4 provided in this paragraph does not apply to a highway
5 designated as an official state scenic highway pursuant to Section
6 262 of the Streets and Highways Code.

7 *(4) Emergency work declared by a resolution, adopted by a*
8 *majority vote, of the governing body of a local governmental*
9 *agency to be necessary to prevent or mitigate immediate future*
10 *loss, or damage, to life, health, property, or essential public*
11 *services that, in the determination of the local governmental*
12 *agency, is likely to occur as a result of fire, flood, storm,*
13 *earthquake, land subsidence, gradual earth movement, or*
14 *landslide.*

15 (b) The entity performing the emergency work described in
16 subdivision (a) shall notify the department of the work, in
17 writing, within 14 days of beginning the work. Any work
18 described in the emergency notification that does not meet the
19 criteria for the emergency work described in subdivision (a) is a
20 violation of this chapter if the entity did not first notify the
21 department in accordance with Section 1602.